



Minutes

RANDOLPH COUNTY PLANNING BOARD

June 7, 2016

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, June 7, 2016, in the 2nd Floor Meeting Room, Randolph County Historic Courthouse, 145 Worth Street, Asheboro, North Carolina.

1. **Chairman Reid Pell** called to order the Randolph County Planning Board meeting at 6:30 p.m. and welcomed the newest member to the Board, Keith Slusher.
2. **Jay Dale**, Planning Director, called roll of the Members: **Reid Pell**, Chairman, present; **Wayne Joyce**, Vice Chairman, absent; **Chris McLeod**, absent; **Larry Brown**, present; **Phil Ridge**, present; **Kemp Davis**, present; **Keith Slusher**, present; and **Ralph Modlin**, Alternate, present. County Attorney **Ben Morgan** was also present.
3. **Davis** made the motion, seconded by **Ridge**, to **approve** the Minutes of the May 3, 2016 Randolph County Planning Board meeting. The motion passed unanimously.
4. **REQUEST FOR THE GROWTH MANAGEMENT PLAN TO BE AMENDED:**

JOSEPH MILLIKAN, Randleman, North Carolina, requested that the Growth Management Area designation of 59.69 acres located at 1801 Naomi Road, Providence Township, be changed from Rural Growth Area to Municipal Growth Area. Tax ID# 7775062096. Polecat Creek Water Quality Critical Area.

Technical Review Committee Recommendation:

The Technical Review Committee met and discussed this proposal. The Growth Management Plan serves as a long-range guide for public policy decisions concerning the **overall** growth and development of the Randolph County community. It is the opinion of the TRC that such a tool should only be changed as part of a much broader effort and not just to change Growth Management requirements for small tracts of land. The Growth Management Plan was put in place to serve as a firm set of guidelines to guide the development of Randolph County and to allow these small changes would negate its effectiveness. The TRC recommends to the County Planning Board that this request be **denied**.

Jay Dale, explained to the Board how the Technical Review Committee came up with their recommendation to deny the request by reading from the following statement:

The Technical Review Committee has recommended denial for the Joe Millikan request but in light of some of the questions I have received from board members and the public I wanted to give a clear explanation. We understand that Mr. Millikan wishes to be combined with the Municipal Growth Area which adjoins his property on Naomi Rd. to the west. This would allow Mr. Millikan to be able to develop a subdivision with smaller and therefore more lots. As the location of Mr. Millikan's property was somewhat unique we decided to bring his request before the board. We recommended denial because while it would seem to be a simple line adjustment, the fact is that Mr. Millikan's property does not meet the definition of a Municipal Growth Area. On page 23 of the 2009 Randolph County Growth Management Plan it states;

"This growth area is contained within the corporate limits or extraterritorial planning and zoning jurisdictions of municipalities located within Randolph County. Mixed high density urban growth is anticipated in these planning areas. Coordinated intergovernmental planning for land use, transportation, water and sewer infrastructure, scenic heritage asset preservation, and economic development is strongly encouraged between the county and the municipalities."

Unfortunately Mr. Millikan's property does not meet the description in this definition. Furthermore the City of Randleman was contacted to see if there were any plans to expand in the Naomi St. area. The answer was no. With this in mind we could see no way to grant Mr. Millikan's request.

Through this process it became clear there is a lot of confusion on what a Growth Management Plan is and what the process is for amendment. The Growth Management Plan was a document that was created to satisfy NCGS 153A-341 and 160A-383 which require that "Zoning regulations shall be made in accordance with a comprehensive plan."

While the state does not have any mandates on how this document should look and what should be included it was clear that this was a document that should be resolute and that it should not be as easily amended as a zoning map. One of the purposes of this document is to provide guidelines and policies that insure decisions made by the governing boards are following a set plan and are not arbitrary and capricious. These documents are often referred to in court cases when dealing with zoning matters.

That said there are times when the document must change to reflect significant changes in the community and there should be procedures for amending the Growth Management Plan. In Randolph County there are two ways that the Growth Management Plan may be amended.

The first is a total review and update. This occurs when the Board of County Commissioners determine the plan needs to be updated and direct the Randolph County Planning Department to begin that process. That process is currently underway. With the adoption of the new Strategic Plan it was decided that the Growth Management Plan needed to be updated.

Currently there is no set schedule for when these reviews will take place but as these plans are long range the NC Institute of Government has stated in publications that every 10 years would be the norm. Obviously the need for changes in Growth

Management Areas could occur more than every 10 years which leads us to the second method available to citizens in Randolph County for making changes to Growth Management Areas in the Growth Management Plan and that would be the Small Area Plan.

In the publication "An Overview of Planning in NC" by David Owens and Rich Ducker of the NC Institute of Government the authors discuss procedures for making amendments to comprehensive plans (The Growth Management Plan) and list Small Area Plans as a tool for making these changes. Stating that they "give detailed attention to smaller geographic areas. They are often prepared with intensive public participation between major updates of the larger comprehensive plan."

Randolph County has guidelines for Small Area Plans within our Unified Development Ordinance. In the ordinance it states that "The Small Area Plan along with the Growth Management Plan act as a foundation and guide for the Planning Board and Board of Commissioners in matters of land use."

It is the opinion of the Randolph County Planning Department that this is how developers should request a change in the Growth Management Areas. It will involve more public input and research but will protect the integrity of the Growth Management Plan and its intended purpose.

Dale, moved forward with the presentation of the following request because it was contingent on the first request.

5. **REQUESTS FOR PROPERTY REZONING:**

- A. **JOSEPH MILLIKAN**, Randleman, North Carolina, requested that 15.88 acres (of the 59.69 acres) located at 1801 Naomi Road, Providence Township, be rezoned from RA to CVOE-CD. Tax ID# 7775062096. Polecat Creek Water Quality Critical Area. The proposed Conditional Zoning District would specifically allow the development of a 7-lot residential subdivision for site-built homes with a minimum house size of 1,400 sq. ft. as per site plan.

Technical Review Committee Recommendation:

The Technical Review Committee met and found that this proposal was **not** in compliance with the standards outlined in the 2009 Growth Management Plan adopted by the Board of County Commissioners. The Technical Review Committee recommends to the County Planning Board that this request be **denied**.

Examples of Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

Policy 6.16 The County should preserve scenic views and elements of the County's rural character by minimizing perceived density by minimizing views of new development from existing roads through use of natural buffers and open space.

Policy 6.21 Open space subdivision design should be encouraged to maintain the special features that contribute to the rural character, such as preservation of scenic views, woodlands, and farmland.

Taylor Callicutt, attorney representing the property owner, Joe Millikan said that he would be talking about both requests combined as Dale did given that the rezoning request is contingent upon the approval of the Growth Management approval. He said that he agrees with Dale in part but felt that it was just a matter of making a small line adjustment for his client because the property borders the Municipal Growth Area for the City of Randleman. He pointed out that most of the municipalities have a 1 mile radius for jurisdictional matters and in this situation, the jurisdictional line was cut off at Polecat Creek which only left approximately ½ mile of jurisdiction from the city limits of Randleman. He said that if the jurisdiction line had been stretched the full mile, there would not be a need for this request because his client's property would be located within that 1 mile. He thinks this is a reasonable request due to the growth that has taken place in this surrounding area. He said the request is only for 7 lots on a 15 acre tract and that's not a large variance from the three acre minimum that is required for the current Growth area. He said there is already greater density of development within 1 mile radius than is being requested.

Callicutt said although Polecat Creek was specifically addressed as part of the Technical Review Committee's decision, it is no longer being used as a water source for the City of Randleman. On paper, it is still considered a water sensitive area although, it is his understanding, that all of the drinking water is now being purchased from the new lake and the City of Asheboro, therefore it should no longer be part of the decision making process. He described an adjacent tract of land that was developed with 80,000 square foot minimum lot size and homes that are equivalent in size to what is being requested.

Callicutt told the Board that he was not aware of anyone in opposition of the request. He said there was only supporters at the public meeting that was held, no opposition. He said by approving his client's requests, it will only benefit the County by increasing property values in that area. Callicutt said with his experience as a Real Estate attorney, he sees the need for land to build on as well as the need for available housing options. He feels strongly that this would be fulfilling a need for the citizens of Randolph County.

Callicutt said that he agreed with Mr. Dale that the request is not in accordance with the current Growth Management Plan as it is written but he thinks that based on the unique aspects of Millikan's property including proximity to the municipal jurisdiction boundary and the density of the development that Millikan has proposed, it would **not** be a hardship to the County or to any of the surrounding land owners if the Board decided to amend the current growth management area.

Callicutt said as far as Millikan's second request, the Technical Review Committee recommended denial of the request based on policy (6.16) which is *to preserve the scenic view and elements of the County*. He thinks that this request will not impact that policy. He said the proposed development would provide a nice transition of unimproved raw land to development within the municipal limits. In regards to the second policy (6.21) for open space subdivision design, he feels that his proposed subdivision, as shown on the proposed site plan, takes into consideration the natural buffers and Polecat Creek.

Modlin asked if all of the houses would be on a well and septic tank. **Callicutt** said yes.

Jean Millikan, 2014 Naomi Rd., Randleman, NC, addressed the Board and requested to speak in favor of having the Growth Management Plan amended. She read from a statement she had prepared as follows:

It's the opinion of the TRC that such a tool should only be changed as part of a much broader effort and not just to change the Growth Management requirements for small tracts of land. The Growth Management Plan was put in place to serve as a firm set of guidelines to guide the development of Randolph County and to allow these small changes would negate its effectiveness.

To counter this opinion, I would like to bring to your attention some of the resolutions that were put in place when adopting the 2009 Randolph County Growth Management Plan:

It is the intent of the Board of County Commissioners by establishing this Growth Management Plan, to recognize that sustainable economic growth, environmental protection and rural quality of life can be pursued together as mutually supporting public policy goals.

Recognize that growth management policies should afford flexibility to County boards and agencies that will enable them to adapt to the practical requirements often necessary for rural development.

This should ensure the opportunity for landowners to achieve the highest and best uses of their land that are consistent with growth management policies in order to protect the economic viability of the County's citizens and tax base.

Also, to consider the costs as well as the benefits of growth management policies in order to preserve affordability for citizens' real estate and housing needs.

Joe Millikan, 2014 Naomi Rd., Randleman, NC, said that he knew policies were put into place as guidelines for development but he also knew that amendments are allowed for situations that may have been overlooked.

Millikan said in his research, he has found that in most cases, rural growth does not border municipal jurisdictions as this property does and he feels this area was only placed in rural growth area because it was in watershed. Millikan said he talked to Mr. Hal Johnson, multiple times regarding this situation a few years ago

when Mr. Johnson was Planning Director, and Mr. Johnson told him that the property was placed in rural growth area because of the watershed. Millikan said that Johnson shared the same opinion as Mr. Dale regarding the Growth Management Plan and that it should not be amended. Millikan said although this property is still located in a watershed on paper, he has signed papers that Randleman no longer uses water from Polecat Creek. Millikan also said the State came out and disconnected everything from Polecat Creek and documented accordingly, so therefore it should no longer be considered a watershed area.

Millikan read the portion from the Growth Management Plan defining Municipal Growth areas – *located within the city limits or extraterritorial regulatory jurisdiction of the city*. He said that Callicutt had already pointed out the ordinance between the County and the City that the City regulates a one mile jurisdiction and his property is only one-half mile from the municipal growth. He said the way he sees it, if regulations were followed, instead of trying to make it easier by stopping short at Polecat Creek, his property would have already been incorporated within the one mile Municipal Growth Area. He said he has asked all of the neighbors, and has not had any opposition to his request. Millikan said he feels as long as what you are proposing benefits the area (and your neighbors), that changes should be allowed.

Tommy Pugh, owner of property at the end of Naomi Rd. and Bull Run Creek Rd., understood the property to be zoned this way because of watershed protection regulations. He said that seems to be a moot point now that the water is being obtained by another reservoir. He said he feels that the development of these lots (if sewage systems were properly installed), would not cause pollution of Polecat Creek. He said the only person being affected negatively by this situation is Millikan. He said he didn't know of any property owners in the area opposed to Millikan's request. He said allowing two-acre lots in this area would not affect its rural nature. He said there seems to be room for a change for Millikan based on the property and its proximity to the city limits. He said he has no objections to this request and he requested the Board members look at Millikan's request fairly when making their decision.

Chris Smallwood, property owner on Naomi Rd., said he bought his property in 1999 because he wanted to live in the country and this is in the country, but growth is needed. He said he understands laws and regulations but there are houses built all the way up to the Polecat Creek on the opposite side, so Millikan should not be restricted from doing the same. He said if that is the case, then the houses on the opposite side of the creek should be torn down. He felt the homes Millikan built (adjoining the site), had increased his property value and he supports the change.

Dale stated that there is not a one mile extra territorial jurisdiction as mentioned by several people throughout their presentations. Polecat Creek has been abandoned as a water source but the State still maintains it as a watershed. One of

the reasons that this area was placed in the rural growth area was due to the tremendous turn out by the public requesting it to be lower density housing in this community. He said there was a drought during the 90's and a number of wells went dry in the County. People felt like it was due to the dense population of housing that was taking place so the County felt that 3-acre minimum lot sizes would allow water re-charge. He explained that the current Growth Plan would allow Millikan five lots rather than the seven lots that have been requested.

Dale told the Board that Millikan's request is not an unreasonable request, just the wrong process. He suggested that Millikan consider asking for a Small Area Plan that would incorporate the area across the creek rather than a request for an amendment of the Growth Management Plan. He said with the property being located so close to the municipal limits, there is more of an argument to be made.

Phil Ridge asked why municipal growth was requested instead of secondary growth which would accommodate the number of lots Millikan was requesting.

Dale said the municipal growth request was taken because it was a request to extend an existing Municipal Growth Area rather than a spot change. He said if spot changes took place for individual requests, you would eventually no longer have a Growth Plan and developers within Rural Growth Areas, would be encouraged to request a Secondary Growth Area to allow more development.

Dale said by looking at a broader area, allowed by a Small Area Plan, he feels Secondary Growth Area could be a more appropriate request.

Ridge asked for an approximate time frame on requesting Small Area Plan. **Dale** said that if Millikan were to come and make a request for a Small Area Plan, the Planning Department would evaluate the request and determine the area boundaries (based on unique features of the area). Neighborhood information meetings would be held to educate the public and allow for their input. The plan would then be brought before the Planning Board for review.

Dale said Small Area Plans can allow more flexibility. He described the Birkhead Wilderness Small Area Plan that actually requires 6-acre minimum lot size for all lots.

Morgan asked Dale how many acres were incorporated in the Birkhead Wilderness Small Area Plan that was approved. **Dale** announced he was unsure of the acreage but described as the area within the borders of High Pine Church Rd., Lassiter Mill Rd., and Betty McGee Creek (and is hundreds of acres). Dale said if the applicant was to move forward with the Small Area Plan, it wouldn't be as large as Birkhead Wilderness, but the minimum area that would be considered would be at least one-half mile from the proposed site.

Ridge asked if the Growth Management Plan had been changed in the past.

Morgan said the Mega Site had been changed in the past consisting of 2000+ acres.

Ridge asked if a spot of this size had ever been changed. **Morgan** said the spot zoning as Ridge had referred to was something that the County did not want to consider. He said he felt Dale had been trying to explain by changing a tract of 50 acres or so by individual ownership, would undermine the Growth Management Plan. Morgan said the more appropriate approach would be to proceed with a Small Area Plan which would involve a much larger number of citizens and their input. He said the process would be similar to a re-zoning process where you have the community meetings and input from a larger portion of people. He said the Growth Management Plan has been put together by having input from citizens, it was not created by a vacuum.

Ridge said he remembers when Growth Management Areas were established and there was strong involvement from citizens in this particular area. The community wanted to be sure this area was placed in the rural growth area. He said that he understands the arguments that have been made and why the request was being made but he also understands why the Growth Management Plan is set up as it is.

Morgan said that Millikan's application is adjacent to the Extraterritorial Zoning Jurisdiction of Randleman. However, the Board should be cautious in changing the Growth Plan for one, individually owned property.

Chairman Pell asked what the approximate time-line Millikan would be facing if he decided to proceed with the Small Area Plan request. **Dale** said that the minimum time line would be approximately 4 months because of public meetings and the notifications that would be required.

Ridge asked what area would be considered for this Small Area Plan. **Dale** said his recommendation would be to extend what is already in the Secondary Growth just south of Creek Ctry Rd. up to the existing Secondary Growth Area just north of Brown Oaks subdivision (as shown in tan on the maps in front of them). He said he thought it would be a more appropriate transition from Municipal Growth to the Rural Growth Area.

Davis asked if there were a lot of farms to the south of this property. **Dale** said that he believed there were farms to the south but there are residential properties along Naomi Rd. He said that he thought that the property just south of this site is also owned by Millikan and is currently permitted for a solar farm.

Modlin asked about the camp that was near the property. **Dale** explained that Camp Nawaka had originally been a boys' camp countywide, and then became somewhat of a private community prior to zoning regulations, it would not meet today's zoning requirements. He said the remains of the cabins that were once

there have been heavily modified by the people living on the property.

Modlin said that he feels that the request made by Millikan is a very reasonable request and he would like to see it worked out. He said he understood not spot zoning but it is directly adjacent to the Municipal Growth Area of Randleman.

Dale agreed that it is not an unreasonable request, however he felt that this is not the mechanism to handle the request. He feels that we should be looking at a broader area.

Davis asked Millikan if he had talked to the City of Randleman about expanding their jurisdiction. **Millikan** said he had talked to multiple people about this situation. He talked to all of the County Commissioners and people from the City of Randleman. He feels like being annexed into the City would require water and sewer to be run to the property which would allow 50-60 houses in the area which he does not want. Being annexed also effects the tax base for properties which he does not want due to the affordability of the lots. He said he would like to see a return on his investment, not to ruin the area and make his neighbors unhappy.

Davis asked Millikan if he understands the dilemma that the Board has before them. **Millikan** said that he does understand what the Board has to consider and he said he understands that if the Board approves his request, others would be encouraged to come before them and request the same thing, but he feels that his situation is different than most and should be strongly considered.

Davis said that he understands Millikan's situation but feels that the Board's hands are tied by the regulations that are in place.

Dale said again, he agrees that this is not an unreasonable request although it is not the mechanism to use to make the changes. He said that if Millikan agrees, he will start pulling maps and looking at the situation in the morning to proceed with the Small Area Plan request.

Millikan withdrew his current application and said he would like to proceed with a Small Area Plan request as recommended by the Board.

- B. **BKM RANDOLPH, LLC**, Asheboro, North Carolina, requested to amend the Conditional Zoning District located at 279 Joe Farlow Road, on 25.02 acres, Richland Township, Primary Growth Area, Zoning District HI-CD. Tax ID# 7666058421. The proposed Conditional Zoning District would specifically allow the property to be used as a motor sports facility and outdoor physical fitness events as per site plan.

Technical Review Committee Recommendation:

The Technical Review Committee met and found that this proposal was in

compliance with the standards outlined in the 2009 Growth Management Plan adopted by the Board of County Commissioners. The Technical Review Committee recommends to the County Planning Board that this request be **approved**.

Examples of Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

Policy 1.3 The benefits of economic development should be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents.

Policy 1.4 The continued growth of Randolph County's tourism industry will be encouraged.

Dale told the Board that this request was being brought before them again by the direction of the Board of Commissioners. He said when it was heard by the Commissioners in March, they felt they needed clarification of the request. He said Commissioner Frye had stated he needed clarity on what was actually being requested. Commissioner Kemp wanted a few specific things dealt with that was part of the request and that the entire Board felt this would give both parties additional time to establish an agreement that would satisfy everyone.

Dale said the Planning Department had since received statements from both parties. He said a compromise had been established that would hopefully satisfy both parties.

Dale said first of all, Commissioner Kemp had concerns regarding the go-cart racing, demolition derbies, and tractor pull events. Maness has agreed that there would be no go-cart racing, no demolition derbies, and no tractor pull events. He said Commissioner Kemp also had concerns regarding the buffers that should be in place. Dale said that Maness has agreed to work with the planning staff to replace any trees that are missing. Dale said Commissioner Kemp also had concerns regarding the sound system which is a little more complicated matter to deal with. He said he is under the impression that experts have been contacted regarding the sound system and they would be speaking tonight. He said the hours of operation currently being proposed were more concrete than were originally requested. Based on this information, he said the Technical Review Committee has recommended the request be **approved**.

Chairman Pell said before we start the public hearing process, he would like to get a count of the people that are for and against this request. There were 37 people there in favor of the request and 45 people there in opposition of the request.

Adam Spivey, representing Barry and Krista Maness (BKM Randolph, LLC

doing business as Zoo City Motorsports), said they were there to address the issues already stated that have been brought forth by the Board of Commissioners regarding this zoning amendment request. He asked if he could reserve time for rebuttal if needed after his presentation. **Morgan** said that was fine. Spivey said the concerns indicated by the Board of the County Commissioners regarding the buffers, the PA system and the hours of operation have all been addressed in the proposed conditions that were submitted to the Technical Review Committee but what this was all really about was the request to allow the eighth most visited tourist attraction in Randolph County to continue to operate as it has been. Allowing Zoo City to continue to operate increases the tax base and allows other businesses to benefit from its operation. He said Mr. and Mrs. Maness have invested a lot of money to operate Zoo City Motorsports, and the business has done well in the community. He said he had 76 pages with over 900 signatures in support of Zoo City and its efforts to continue operating as it has been.

Spivey said that he had provided the Board members a packet of information that he would be referring to in his presentation. He said the first issue that he would be talking about would be the buffer, and provide a site map to the Board of Zoo City. He noted that to the west side of the facility is I73/I74, to the east is Bus 220. That area between Zoo City and Bus 220 is mostly dense trees in a rural area which is very important. He said this is important because the three streets sited most on the petition given to the Planning Board from the opposition, were Edna St., (which is approximately 1.6 miles from the facility), Happy Hollow Rd. (which is approximately 2.1 miles from the facility) and Midway Acres Rd. (which is approximately 1.7 miles from the facility), located in that area. He said that information would be very important when he begins to address the sound issues. He said one of the chief opponents of the request is Lighthouse Baptist Church, which is located about half way between the three streets he mentioned, give or take $\frac{3}{4}$ mile.

He said the letter (provided in packet), by Jerry Harrison, with 30 years' experience, doesn't believe the zoning amendment change will pose harm with respect to the sound generated from the PA system. He said Mr. Harrison's letter notes that due to the nature of the PA system, the angle of the speakers, the absorption of the sounds by trees that surround that area and the high frequency of the sounds themselves, that much of the sound would be absorbed or deflected, that sound heard would be a lower level conversational volume to a loud whisper and that was all within the one-half mile from the facility.

Spivey referred back to the maps that had been given to the Board. He said the opponents of the amendment, were far outside the one-half mile area that Mr. Harrison said would receive virtually no impact at all from the sound coming from the facility.

Spivey said with respect to the buffer that he had already noted the significant number of trees that surround the area, also surrounded by rural lots, highways

and additional land owned by Mr. and Mrs. Maness. He said it would be hard to imagine a more ideal location for this type of attraction.

Spivey said this would bring us to the last issue that was brought to the Board by County Commissioners regarding the hours of operation. He said provided in the Board's packet, the proposed conditions are listed that address the concerns of the Commissioners and the surrounding community. He noted the proposed hours of operation as follows:

Monday, Tuesday and Thursday 9:00 am – 10:00 pm
Wednesday 9:00 am – 6:00 pm
Friday, Saturday 7:00 am – 11:00 pm
Sunday 12:00 pm – 8:00 pm (Eight Sundays a year 7:00 am – 8:00 pm)

He noted that Wednesday will cut off at 6:00 pm and Sunday hours from 12:00 pm – 8:00 pm intentionally to address the concerns that were brought forth with consideration of Lighthouse Baptist Church and that community. He explained those eight Sundays a year are simply put there to provide some flexibility for Mr. Maness to operate events that may run through an entire weekend. He said it is really important to note the need for flexibility for Mr. Maness. He said Mr. Maness operates a very important business, a business that's in a fast growing industry, a business that is very important to the community which is evidenced by the very signatures provided and a business that has been noted as the eight most visited attraction in Randolph County by The Heart of North Carolina Visitors Bureau.

Spivey said Mr. and Mrs. Maness have poured much money into this facility. He said they have done it because it is not only a passion of theirs but because they want to provide a resource that the community can use which is consistent with the Growth Management Plan.

He said his clients are requesting that the Board follow the Technical Review Committee recommendation to approve the request and allow the eighth most visited attraction in Randolph County to continue operating as it has been.

Dale asked Spivey to verify for him that there would not be multiple races running simultaneously, only one race at a time. **Spivey** said there would not be more than one race held at a time as noted on the proposed conditions and that it was also noted on the conditions that there would be no more than 30 races per year.

Morgan asked Spivey to read the proposed conditions as they were submitted to the Board for those individuals who had not obtained a copy (SUPPORT PROPOSAL – ATTACHMENT 1)

Spivey read those conditions as follows:

1. *Operation Hours for Motorized Events: (to include dirt bike, motocross, ATVs, UTVs and OHVs on Racing Track and Trail); (No more than one race to be held at a time); No more than 30 racing events allowed per year.*
 - a. *Monday, Tuesday, Thursday 9 am – 10 pm*
 - b. *Wednesday 9 am – 6 pm*
 - c. *Friday – Saturday 7 am – 11 pm*
 - d. *Sunday 12 pm – 8 pm (Eight Sundays a year – 7 am – 8 pm)*
2. *Operation Hours for Non-Motorized Events (to include cross country trail, bike events, BMX events, foot races, obstacle runs, mud runs, maniac runs, and ninja warrior events)*
 - a. *Sunday – Saturday 7 am – 11 pm*
3. *Extended Hours:*
 - a. *New Year's Eve and Day 7 am – 11 pm*
 - b. *October – 12 nights -- 7 am -- 11 pm*
4. *Public Announcements Allowed at All Events (letter from Jerry Harrison on file in Planning Office)*
5. *Firearm Events Prohibited.*
6. *Go-Carts, Demolition Derby and Tractor Pull Events Prohibited.*

Modlin asked for the definition of an OHV. **Spivey** stated that it was an “Off Highway Vehicle.” He said it was the general term used for the types of vehicles that typically run those tracks.

Modlin asked if the definition of OHV included mud bogs. **Dale** said that Maness had described an OHV to him to be like a four-wheeler with a roll cage around it and asked Spivey if he had understood that correctly. **Spivey** agreed that Dale was correct.

Modlin asked if an OHV could also be used as a term for a big pick-up truck with 3-foot wide, 6-foot tall tires. **Dale** said that it would not include trucks, it would be the small four-wheeler type vehicles (like people use on their farms or that kids ride for fun) that have roll-cages built around them for racing.

Davis mentioned the Firearm Events being prohibited and asked if the display of fireworks (of any kind) had been addressed in the conditions. **Spivey** said fireworks were not addressed in the proposed conditions.

Chairman Pell asked Spivey to submit the support petition signatures to the clerk as part of the record. *(There were 966 signatures)*

Dale explained that Zoo City is proposing 30 racing events per year to allow for the operation to grow. Currently they operate 20 races per year.

Scott Etheridge, 4305 New Hope Church Rd., Asheboro, NC welcomed the newest member of the Board, Keith Slusher and thanked the Board for their time. He asked the Board if they had received copies of the petitions and proposal from the opposition and asked that they be made a part of the record. **Morgan** confirmed that the opposition petition (*with 226 signatures*) and their proposal (OPPOSITION PROPOSAL – ATTACHMENT 2) be made a part of the record.

Etheridge said he trusted the Board had looked at the procedural history of this case and minutes from February 2016. He said he wanted to make a few points to explain the proposal. He told the Board that if they have looked at the February 2016 minutes, Jim Rains, had some very good limitations he had wanted to impose and if they had reviewed those, they would see that they are very generous in light of what was originally asked for, the permissions that were originally granted by the Commissioners (and then what transpired after the approval). He said in an effort to compromise, Mr. Rains suggested the following conditions:

1. Hours of operation
Monday-Friday 9 am – 7:30 pm,
Saturday 9 am – 10 pm,
Sunday 12 pm – 7:30 pm
2. One single event per day – motorcycle, bicycle or physical event.
3. Disallow tractor pulls, mud bogs, demolition derby events or any activity that is not a two-wheel or four-wheel motorcycle or bicycle event.
4. Four special events per year.
5. Accept on-site food preparation concession and sales, and on-site toilet facilities.

He said that Mr. Rains also mentioned in the prior meeting that the parking needed to be dealt with.

Etheridge said one thing that the Board should consider doing is to educate the Commissioners on what the exact definition of an OHV. He said the biggest problem that faces this Board and the Commissioners are assumptions. He said that Mr. Morgan had asked the Board if the conditions and restrictions were understood and the answer was yes then there were huge disagreements about the terms. He said one of the best ways to assist the County Commissioners is to have terms defined. He said, for example, when the term such as “including” is used for these events, you are not actually “excluding” anything.

He said there was nothing outlandish about the request that was being made by the opposition; they were simply asking that the conditions that were agreed upon in 2008 be enforced. He also requested that vegetation be replaced where it had been stripped out.

Etheridge stated that additional restrictions in their proposal requested by the

community were that no alcohol be sold, the age limit on racing be 19 years or younger, and some additional time restraints be made. He said if this facility is truly for the children, these requests shouldn't be an issue. He said the restrictions that have been proposed by the community are just a way for them to co-exist. He said they have no problem with any of the events that bring in the most money for the County such as physical fitness events, bicycle events, and any other non-motorized events. He said what they have proposed is just a way to co-exist with what was intended to be a practice facility and has become a racing facility.

Susan McKenzie, 211 Edna St., Asheboro, NC said that she is curious as to how many of the people that are in support of the request actually live there. She said she wanted the children to have a place to spend their time. She said the community is not totally against the request, they are just asking for a compromise between the proposals. She said she understands this is a business, and the revenue that it brings to the County, but the Board needs to listen to the people who live there every day who also provide revenue for the county by paying their taxes, buying gas, groceries, etc. She said some of these people just come to town once a month or every few months so they don't have to live with it.

Ray Kennedy, 171 Edna St., Asheboro, NC said that before anything else is done, the noise ordinance has to be amended for Randolph County. He said that this facility is in violation of it.

Spivey, said that the conditions proposed by the opposition would put Mr. Maness out of business. He said the applicants have come up with a compromise they are not truly happy with by restricting operating hours in an effort to accommodate concerns of the Commissioners as well as the people of the community.

Morgan stated that Etheridge had made an excellent point, that terms needed to be clearly defined and asked Spivey to clarify some of the definitions on their proposed conditions such as the difference between dirt bike and motor cross, definition of ATV, UTV and OHV, etc. He said that it will assist in enforcement of regulations should it be needed.

Spivey, consulted Mr. Maness for clarity and gave definitions as follows:

ATV – Four-wheelers as commonly understood

UTV – Four-wheelers with roll cages

OHV – not go carts, demolition derby, tractor pull type vehicles as noted on conditions they are simply “off highway vehicles.”

Morgan asked what the difference was between an OHV and a UTV. **Spivey** stated again that the UTV is a 4-wheeler with a roll cage and the OHV is a broader definition but it is not go-carts, demolition derby, and tractor pull type vehicles. **Morgan** asked what an example of an OHV would be. **Spivey** said it

could be a Polaris RZR and it could be a four- or six-wheeler.

Modlin asked if it could be a pickup truck.

Morgan said that the applicant has provided the definitions of these types of vehicles and they would be incorporated as part of the conditions as they have been presented with the Board's approval.

Spivey said he was asked if an OHV could be trucks and he said that it is a broad term for any off highway vehicle but stated that trucks are not used at this facility.

Dale stated that he had been told that cars and/or trucks would not be used at this facility, that the track wasn't set up for those vehicles asked Spivey if he had understood correctly. After consulting with Mr. Maness again, **Spivey** said that the facility was not set up for dirt track racing but OHV was intentionally a broad category for Off Road Vehicles.

Dale asked Spivey to confirm that there would not be any dirt track vehicle racing.

Morgan said that the applicant had explained that the Off Highway Vehicle is ANYTHING that is not designed to be on the road and that the applicant had said that it was intentionally a broad definition.

Modlin said he doesn't like the word "broad" it opens the doors for all kinds of situations.

Michael Poindexter, pastor of Lighthouse Baptist Church, said the broad terminology is the exact reason the meeting was taking place. He said the opponents' proposal had an age category because the community had met and they agreed that the kids should be able to race because it is good for the kids to have something to keep them occupied. He said their proposal had capped the age at 19 because if you take the older people off the track, it eliminates the problem with late evening hours and it eliminates types of vehicles that could possibly become the problem later. He said the community met, came up with a proposal that could be acceptable to both sides, so that everyone could co-exist.

He said it seems that the main financial gains are with the non-motorized events and the community had not asked for any restrictions on those. He said they were asking the Board to allow the kids to continue to race but lock down the requirements so they are not back before the Board in a couple of years because limitations are being pushed as they are now (and vehicles grandfathered because of lack of clarity). He said what was originally approved as a training facility has become a race track. He asked that the Board give the community some peace of mind so Zoo City can continue to operate, the kids can keep racing, and they can continue to have all of the non-motorized events (which will still continue to

bring money into the County).

Modlin said he feels that everyone has a good concept of what an ATV is and wants to know if OHV is a term that is as well recognized in this sport.

Slusher said that he thought he knew what an OHV was until it was presented to the Board. He said that he thought that the term was used to describe vehicles like a Polaris RZR but by Spivey's definition it's much broader than that.

Spivey said that Maness is trying not to limit or restrict his property to uses that has already been conducted out there. He said what Mr. Maness has used the term for are the vehicles that you have already discussed. He said Mr. Maness does want to use these tracks for Polaris RZR's and whatever the generic term is for that type vehicle. Spivey said Mr. Maness doesn't want to be limited to the brand names, being made part of the record. He said for example, if there is a Honda or Kawasaki version of that type vehicle, he doesn't want the record to show that Polaris RZR is the only type that can be used for racing and that's the concept of what they are trying to push forward not to not to convolute the definition of OHV.

Dale asked Spivey if they would be accurate in saying a RZR or RZR-like type vehicle for the record. **Spivey** said yes or Polaris-like vehicle.

Morgan asked Maness if he understood the reasoning for trying to narrow down the definition of an OHV and the concerns that the Board and the community have with what will actually be allowed by giving such a broad definition of the term and which will be difficult to enforce.

Dale asked if it would be safe to define OHV as a Polaris RZR or its competitor of that same type vehicle. **Spivey** said they would submit that as a definition for that purpose.

Jessie Havens, Asheboro area, is a mechanical and automotive engineer who spent time with NASCAR said he would like to try to give some clarification with some of the Board's concerns. He said typically at a motorsports facility, insurance policies would create the limitations that the Board is looking for regarding horsepower and decibels which would control the noise limits, the horsepower limits, etc. He said the different types of vehicles are defined by the wheel base, track width, horse power levels and the weight of the vehicles which are all related to safety issues within an insurance policy and could be used to give the Board guidance for specifically defining some of the Board's questions.

Amiel Rossabi, attorney also representing Maness, said it seems that a definition is the only issue with the request. He said with respect of what Mr. Havens said, insurance policies are intentionally vague and intentionally broad. He said if you were to use insurance policies as your limitations, the opposition would not be

happy because insurance policies don't tie things down as well as they should.

Rossabi said that their position is very clear, they want to continue business as they have been. He said there have been no big trucks or car track racing. He said he thinks that the ATVs and the UTVs are sufficiently defined and with respect to the OHVs, they wanted to be straight with the Board. He said the OHV is a broad definition. He said you could have hundreds of types of Polaris and/or RZR vehicles. He said they do not want to be in violation by specifically using the term Polaris-like or RZR-like vehicle as the definition of OHV (should they use any of the other vehicles). **Rossabi** stated their official definition of an OHV is a Polaris-like or RZR-like vehicle AND like the vehicles that have been used before at this facility. He said he is unaware of unacceptable use of vehicles used at this facility. They are prohibiting go-carts, demolition derby and tractor pull events in the proposed conditions submitted to the Board.

Ridge said that OHV seems to be such a broad definition and asked if there could be a more specific way to clarify the types of vehicles allowed by limitations on weight, horsepower, etc. He asked what criteria were used for allowing a vehicle in a specific race. **Rossabi** said he understands **Ridge's** question but classifications are too broad as well. **Ridge** asked if **Maness** was willing to limit the classifications for more clarity. **Rossabi** said the number of classifications is not going to cover every vehicle. He said that a motocross classification would be different than ATV, etc. He said it still would not identify the different types of vehicles.

Ridge said that speaking specifically about the OHV classification, there should be a way to narrow the allowed specifications of a vehicle. **Rossabi** said he feels that is what they have done when they have identified specific "types" of vehicles. He said that no one could say their definition of Polaris type vehicles would allow a big truck. He said by having described this allowed type of vehicle and painting a mental picture of these types of vehicles should be sufficient in their intent.

Chairman Pell said it would have been good to have an actual picture of these types of vehicles for clarification. **Rossabi** said they would be glad to submit photos for the record of the types of vehicles that they are trying to define.

Morgan asked the applicant to state their definition of an OHV again. **Rossabi** said that the definition is exactly what Mr. Spivey has already described. He said an honest definition would be any off road vehicles, meaning any vehicle that is not made to use on the road. **Morgan** asks if he said ANY off highway vehicle. **Rossabi** agreed that it could be ANY off highway vehicle. He said it could even be a tank truthfully but they would gladly put on the conditions that there would be no tanks. He said they are clearly not using tanks or that anyone could say that a Polaris-like or RZR-like vehicle could be confused with a tank.

Davis asks if he is willing to define an OHV with photos. **Rossabi** said that they

type vehicles.

Slusher said that he feels that photos would be appropriate because he feels the Board is trying to prevent 1977 Jeeps with V8 engines which can also be defined as an off highway vehicle, racing until 10:00 pm on a Saturday night. **Rossabi** said that he feels that the Board would agree that a Jeep would not fall under a description of a Polaris or RZR type vehicle. **Slusher** agreed and said the original definition of an Off Highway Vehicle would not exclude Jeep, it would actually include that type of vehicle. **Rossabi** agreed.

Slusher reminded Rossabi that the opponents would not be happy with the broad definition of an OHV so he would like to help narrow down the definition with photos or anything else that would help define an OHV. **Rossabi** told the Board that there has never been that type of vehicle race at this facility.

Chairman Pell told Rossabi clarification is required when Jay Dale, Planning Director receives a call to enforce what types of vehicle(s) are allowed to be used at this facility. **Rossabi** said they would be happy, as part of the approval process, to deliver photos of Polaris and RZR type vehicles to the Planning Director the following day.

Chairman Pell asked Brent Trotter from Cycle Center in Asheboro to explain a little about the different types of vehicles to help the Board with clarification.

Trotter said that UTVs were originally built by Kawasaki to be used as a utility vehicle. He said the market has now changed into more of a sport and they can be used as a recreational type vehicle also known as a side-by-side or OHV. He said they are not street legal vehicles, they are used strictly off-road. He said the terminology is changing as new models come out and he feels that Mr. Maness does not want to limit himself because of the changing market. He said as an example Honda currently builds a 1000 cc side-by-side but you may see that change to 1,500 cc in the very near future, there is no way of knowing. He said if specific limits are put on these types of vehicles and the market changes, it will have to be brought before the Board again for amended conditions. He said he feels that's why Mr. Maness needs more of a broad definition so that he is not limited to only what is available on today's market.

Morgan asked Trotter the classification for a "Gator." **Trotter** said a Gator would be classified as a UTV. He said they max out at about 20 mph, mainly used as utility vehicle such as grounds keeping, etc.

Morgan asked Trotter to explain the side-by-side. **Trotter** said that it is two seats side-by-side with a steering wheel. He said North Carolina defines an ATV as a three or four wheel vehicle that you stride a seat and steer by means of a handle bar. He said a side-by-side will have seats like a car or truck and a steering wheel, some can even seat up to five people. **Dale** asked if the size of the

side-by-side vehicle would be somewhat the same size as a Gator. **Trotter** said they were roughly the same size. He said they are all approximately 63 inches wide and eight to nine foot long.

Davis asked if these type vehicles were modified for track racing or if they would be stock vehicles. **Trotter** said they could have both classes, stock or modified.

Modlin asked again if the OHV was as well recognized term as the ATV and the UTV. **Trotter** said that the UTV was originally designed specifically as a utility vehicle generally not used in racing, they are more for utility, grounds keeping vehicle. He said the Rhino was also designed as a utility type vehicle and people starting using those more as a recreational vehicle.

Modlin asked Trotter again if the term OHV is as well recognized as the term ATV. **Trotter** said the term OHV is used throughout the industry as well. It is used as a much broader term which includes the UTVs, side-by-side and others in that one definition.

Morgan asked Rossabi if the applicant accepted the definitions as described by Mr. Trotter. **Rossabi** said yes.

Etheridge said this definition discussion is a problem and that it will be a nightmare for Jay Dale. He said we are all lawyers and this is what we do. He said that you are going to be shown a picture and it will be told that the vehicle will be “like” the one in the photo and when it comes time to enforce a complaint and the County ends up being sued, a jury will have to decide if the vehicle is “like” the photo or not. He said the County will not want to start bearing the expense of these mistakes.

He said if the industry comes out with a 2,000 cc vehicle in the future and it is highly modified, and there are ten of them racing at one time, that will become a problem. He said that if you leave the facility as it was approved for a training facility you won't have a problem.

He said every time the Boards have tried to help the applicants work out the issues, the word “including” gets placed into what is allowed but nothing is “limited to.” He said if you leave OHV to industry standards, you will continue to have problems including things that haven't even been anticipated. He said the applicants revealed their hand to the Board back in February 2016 by stating the importance of getting their approval because they didn't want to have to come back before the Board again and ask for anything. He said if left up to the industry standard, there are no limitations as the vehicles continue to grow and where does that leave the community, when the Boards allow it.

He said the problem from the beginning, even though the Board has tried to place conditions, is the applicant has been really good at getting around them. He asked

the Board to please understand exactly what they would be approving before sending forward to the Commissioners.

Derek Johnson, lives approximately two miles from the facility. He said that he and his boys have been racing at the facility as long as it has been open. He said he is 35 years old and he doesn't want to be restricted from riding with his kids as a family event because of an age limitation. He said that he only remembers one time that three RZR's raced at the facility. He said he would estimate that 99.99% of the races held at the facility were dirt bikes, the tracks are not set up for other type vehicle racing and he doesn't think that Barry would be willing to spend the money that it would take to set up tracks for other type vehicle racing. He said it has become a family event for them. He said that he can only remember one time that Barry had three Razors race at this facility. He concluded by saying that most other type vehicles are actually less noisy than dirt bikes. He told the Board to remember the last meeting and there were approximately 300 in support of the facility and only about 50 in opposition of the request.

Chairman Pell closed the public hearing for Board discussion.

Morgan reminded the Board to state in their motion clearly what the conditions would be. He said the applicant has provided their application with conditions. He told the Board they had a couple of options. The Board could vote to deny, accept the request with the conditions provided by the applicant, or they could vote to approve with their own amended conditions.

Davis said that he feels the description of an OHV as it had just been described in their discussions, should be part of the conditions.

Slusher asked if the description would then be carried forward to the Commissioners.

Morgan suggested they make the definition part of their motion if they chose to do so and it will then become part of the record.

Ridge asked what the Board's thoughts were regarding the hours of operation and possibly shortening the hours. He asked the Board if they should consider omitting the term OHVs totally from the conditions and only include dirt bikes, ATVs and UTVs as allowable vehicles, because OHV has such a broad definition. He asked the Board their thoughts on reducing the number of racing events to 25 which would still leave the applicant room for growth.

Morgan advised the Board that if a motion was made with conditions other than the applicant's proposed conditions, the applicant would be asked if they would accept the conditions proposed by the Board. He said if the applicant agrees, it will be voted upon. He said if the applicant does not accept the conditions presented by the Board, those conditions will not become a part of the motion and

the Board will then, either vote for or against the application as it has been presented or the Board provides another set of conditions to present to the applicant.

Davis asked Ridge if he is suggesting that the pm hours of operation be shortened as part of the conditions.

Ridge said he thinks the number of events should be reduced to 25 rather than 30, that OHVs be eliminated as an allowed vehicle, possibly limit the Monday, Tuesday and Thursday hours to 9 pm instead of 10 pm and change the wording for the motorized events from "to include" to "*only include*" *dirt bike, motocross, ATVs, and UTVs on Racing Track and Trail* because of the complications wording can cause.

Davis asked Ridge to give him a description again of what he would consider for the proposal.

Ridge said that he felt the number of events should be reduced from 30 to 25 because that would leave room for growth. He wanted to reduce the hours of operation for the motorized events. He said he didn't mention the 12 nights in October because he was unsure what days of the week were being requested.

Davis said since the October nights are seasonal and only 12 nights have been requested, he personally did not have a problem with that request.

Ridge said that he was just bringing up things for discussion at this point.

Modlin said if you think about summertime, you have a lot more daylight during those months. He said in consideration of both the applicant and the residents in trying to find a compromise and work this out, the reality is there will be noise. He said this area seems to be a pretty rural area and he knows that the people that live close to it are affected greatly. He said that he lives within about ½ mile of the 311 Bypass and during the middle of the night, when a truck puts on his day break, you can hear it well. He said although we want to work with residents and do the best we can, we cannot control all of the noise.

Slusher said that although this is his first meeting and he wasn't at the other meetings, he had read all of the information regarding the request. He said in regards to the eight Sundays a year, he has concerns starting at 7 am when there are two churches nearby. He wanted to know why the facility would need to be open at such an early hour for racing.

Rossabi said that given the number of heat races and actual races for the day, and the volume of contestants that enter these events, it requires the extended hours to run them all. He said there are a number of events that require extended hours but as a compromise, they had limited it to eight.

Davis asked Morgan for clarification again on what conditions needed to be made part of their motion if making one.

Morgan said that any conditions would have to be made part of the motion regardless of it being the applicant's conditions as presented or the Board's own conditions.

Davis and **Ridge** discussed the possibilities of omitting the OHVs as allowed vehicles because of the uncertainty of the definition, the hours of operation regarding summer and winter hours.

Davis said that he felt the summer hours shouldn't be shortened in his opinion but maybe they could consider the possibility of having shortened winter hours if the Board chose to.

Ridge asked Dale if he had any comments that he would like to share. **Dale** said he thinks the facility currently operates until 10 pm and the applicant had originally proposed they would like to extend those hours to 11 pm and 12 pm on some nights. He said he told them they would be in violation of the noise ordinance by extending the hours of operation so they backed the proposed time down to 10 pm. on the proposal.

Ridge asked how many Sundays were they currently running. **Dale** said that eight was the number they came up with based on what could happen in the future. He said he understood that they haven't ran these events in the past but that some sanctioned events could run all weekend which could carry over through Sunday. He said it has not been normal for them but they do have these type of events.

Morgan said the conditions that have been proposed by the applicant will limit those events to eight Sundays a year.

Davis corrected Morgan by saying it would be eight Sundays beginning at 7 am, not that it would be only eight Sundays total.

Morgan stated that Davis was correct; there would be eight additional Sundays with those special hours.

Morgan said that he would read into the record again exactly what has been proposed by the applicant, hoping to help with clarification for the Board. He read the proposal as follows:

1. Operation Hours for Motorized Events: (to include dirt bike, motocross, ATVs, UTVs, and OHVs on Racing Track and Trail); (No more than one race to be held at a time); No more than 30 racing

events allowed per year.

- a. Monday, Tuesday, Thursday 9 am – 10 pm
 - b. Wednesday 9 am – 6 pm
 - c. Friday – Saturday 7 am – 11 pm
 - d. Sunday 12 pm – 8 pm (Eight Sundays a year – 7 am – 8 pm)
2. Operation Hours for Non-Motorized Events (to include cross country trail, bike events, BMX events, foot races, obstacle runs, mud runs, maniac runs, and ninja warrior events)
 - a. Sunday – Saturday 7 am – 11 pm
 3. Extended Hours:
 - a. New Year’s Eve and Day 7 am – 11 pm
 - b. October – 12 nights – 7 am – 11 pm
 4. Public Announcements Allowed at All Events
 5. Firearm Events Prohibited.
 6. Go-Carts, Demolition Derby, and Tractor Pull Events Prohibited.

Morgan said those were the exact proposed conditions and wording presented by the applicant.

Modlin said he was present for the last meeting and the main concerns were that the facility would be allowed to have big pick-up trucks and mud bogs, that they would be allowed to have Sunday morning events and that they were not going to limit their hours. He said he feels that they have come before the Board with concessions regarding those matters.

Modlin made the motion that they accept the conditions with the exception of having the definition of OHV from Mr. Spivey along with pictures of Polaris and RZR type vehicles.

Morgan made a recommendation not to accept future photos. He encouraged the Board not to make an approval on something they have not yet seen. He said this is an advisory Board and if the applicant wants to take pictures to the County Commissioners meeting they are free to do so. He said he encourages the Board to make a decision based on the evidence they have before them.

Modlin asked for suggestions on how he should define the OHV in his motion without the photo(s).

Morgan said that if you wanted to use the terminology of “like” vehicles they could do so in their motion.

Ridge said in his opinion, the wording “like” vehicles doesn’t clarify the vehicles enough for him to be comfortable with that definition. He said that he would be inclined to omit OHV vehicles.

Chairman Pell said that he would recommend that a motion be made omitting

OHVs and when the applicant comes before the Commissioners they could provide the photos that they have described. He said the Commissioners will have the minutes from the current meeting also as a guide.

Modlin made the motion to approve the proposed conditions from the applicant excluding the OHVs and changing “to include” to “only include” dirt bike, motocross, ATVs and UTVs on Racing Track and Trail.

The motion expired with no one seconding the motion.

Davis made a motion to deny the request as it has been presented

The motion expired with no one seconding the motion.

Ridge made the motion to approve the conditions as they were presented by the applicant, with the following exceptions:

1. *The addition of the word “to **only** include” dirt bike, motocross, ATVs, UTVs, (specifically excluding OHVs), on racing track and trail. No more than 25 racing events allowed per year.*
2. *Monday, Tuesday, Thursday hours of operation during the months of September through May will be 9am – 9 pm and Monday, Tuesday, Thursday hours of operation during the months June through August will be 9 am – 10 pm.*
3. *The Sunday events scheduled would be 12 pm – 8 pm (Five Sundays a year - 7 am – 8 pm).*

Chairman Pell asked if the applicant would accept the motion be voted on as presented with amendments.

Rossabi said that they would reluctantly agree to the 25 events allowed, reluctantly agree to “six” Sundays a year rather than the original 10 they proposed and the five the Board has requested (he said they had already reduced it to eight for the current proposal). He said that he now has a picture showing the “like” vehicles as discussed. He said OHV can define multiple types of vehicles just like motocross. They do not agree to omit the OHVs because it would essentially put Mr. Maness out of business.

Morgan said if the applicant does not accept the amended conditions as they have been stated in the motion, the Board must vote on whether to accept or deny the application with the conditions as they have been presented.

Ridge made the motion, seconded by **Davis**, to recommend to the Board of Commissioners that this request be **denied** as it was presented. The motion passed unanimously.

Growth Management Policies that support this decision are:

Policy 3.7 Sustainable economic growth, environmental protection, and quality of life shall be pursued together as mutually supporting growth management goals.

Policy 7.2 Industries producing excessive noise, odor, air and water pollution, or other harmful impacts shall be discouraged, unless such adverse impacts can be clearly overcome through effective mitigation.

Dale announced that the County Commissioners meeting would be on Monday, July 18, 2016, @ 6:00 pm.

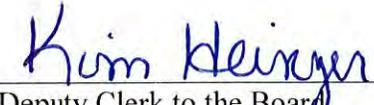
The meeting adjourned at 9:02 pm. There were 89 citizens present.

NORTH CAROLINA
RANDOLPH COUNTY



Planning Director

Date July 7, 2016



Deputy Clerk to the Board

**MEMORANDUM AND CONDITIONS IN SUPPORT OF BKM RANDOLPH, LLC's
PETITION TO REZONE**

TO: Randolph County Department of Planning and Development

DATE: June 7, 2016

FROM: Zoo City Motor Sports

RE: Application of BKM Randolph, LLC, No. 2016-00000058

As a preface to the zoning conditions listed below, it is worth noting that the *2009 Randolph County Growth Management Plan* (the “Plan”) states that: “The Objective of the Randolph County Growth Management Plan are: (1) To encourage quality and sustainable growth; (2) Provide guidance to its citizens, developers, elected officials, boards, and staff, as evaluations are made on rezoning and growth related issues; and (3) Recognize that sustainable economic growth, environmental protection, and rural quality of life can be pursued together as mutually supporting public policy goals.”

The Plan goes on to discuss important economic factors for the area, and highlights Tourism Asset Development as a focus. In fact, on page 4, the Plan states: “Our location between Charlotte, the Triad, and Research Triangle Park will become more important in the coming years. The completion of interstates I-73 and I-74 will improve manufacturing and tourism [. . .] Tourism continues to play a vital role in the County’s economy, including job creation.”

ZOO CITY MOTOR SPORTS WAS THE 8TH MOST VISITED ATTRACTION IN RANDOLPH COUNTY IN 2014 ACCORDING TO THE HEART OF NORTH CAROLINA VISITOR’S BUREAU.

Zoo City Motor Sports (“Zoo City”) held numerous events last year to include: motocross, mountain bike events, BMX, obstacle runs, and others. These events brought thousands of people to Randolph County that otherwise would not have come. These tourists took their dollars and purchased food, gas, and lodging from local vendors. The success of these events and their corresponding economic impact is dependent upon the flexibility of Zoo City in hosting them. Unreasonable limitations on Zoo City’s operational times and uses will inhibit its ability to host these events and will ensure that those tourism dollars go elsewhere. The conditions sought by the Richland Township Neighbors almost certainly will lead to this outcome.

The continued growth and development of Zoo City is in keeping with Randolph County’s Growth Management Policy Guidelines for Economic Development. The following analysis details these connections:

- Policy 1.2 states: “The County will encourage new and expanding industries and businesses which: (1) diversify the local economy . . .”

- Zoo City certainly achieves this policy goal with its expansion and growth in such industries as motocross, mountain bike events, BMX and obstacle runs. These are popular and fast growing industries throughout the country.
- Policy 1.4 states: “The continued growth of Randolph County’s tourism will be encouraged.”
 - The above mentioned recreational events bring thousands of tourist and their dollars to Randolph County every year. Thus, Zoo City is helping Randolph County achieve its goal of growing tourism.
- Policy 1.7 states: “Planning and development decisions should be based on the principal of promoting investment in Randolph County to expand employment opportunities while preserving and improving the quality of life for all county residents.”
 - Zoo City has continually invested in its facilities, and will continue to do so. Zoo City spends between \$60,000 to \$100,000 on its facilities every year. Its growth and expansion is likely to lead to permanent and seasonal employment opportunities for county residents. Further, Zoo City provides additional recreational opportunities for residents of Randolph County thus improving their quality of life.
- Policy 3.1 states: “Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.”
 - Zoo City is bordered by I-73/74 on its west side, and is practically bordered by Bus 220 on its east side. The parcels in between Zoo City and Bus 220 are owned by Barry and Krista Maness. They are rural lots filled with trees, underbrush, and ponds. The parcels that border Zoo City on its north and south sides are multi-acre forested areas. These are ideal features that separate Zoo City from surrounding nonindustrial areas. The vast majority of residential areas in the vicinity of Zoo City are low density and are a mile or greater from the property’s boundaries. Thus, Zoo City more than achieves this policy goal.
- Policy 3.7 states: “Sustainable economic growth, environmental protection, and quality of life shall be pursued together as mutually supporting growth management goals.”
 - Zoo City’s growth and location achieves this balance.
- Policy 3.8 states: “Provide for sites in Rural Growth Areas where industrial activity requiring proximity to rural resources could locate; with the goal of increasing economic activity, job creation, and the tax base of Randolph County.”

- Zoo City is ideally located in a rural setting between Asheboro and Seagrove. Again, its location and growth effectively achieves the goals of increasing economic activity and the tax base of Randolph County.
- Policy 3.12 states: “New rural industrial development shall be located in areas of the site that would lesson impact to adjoining residential and agricultural lands.”
 - Though not “new rural industrial development”, Zoo City’s site location ideally lesson impacts to adjoining residential and agricultural lands (as noted above). Thus, Zoo City again achieves the policy goals set out in the Plan.

With these policy goals in mind, Zoo City proposes the following conditions in connection with its petition to rezone:

1. Operation Hours for Motorized Events: (to include dirt bike, motocross, ATVs, UTVs, and OHVs on Racing Track and Trail); No more than 30 racing events allowed per year.
 - a. Monday, Tuesday, Thursday 9am – 10pm
 - b. Wednesday 9am – 6pm
 - c. Friday – Saturday 7am – 11pm
 - d. Sunday 12pm – 8pm (8 Sundays a year – 7am – 8pm)
2. Operation Hours for Non-Motorized Events (to include cross country trail, bike events, BMX events, foot races, obstacle runs, mud runs, maniac runs, and ninja warrior events)
 - a. Sunday – Saturday 7am – 11pm
3. Extended Hours:
 - a. New Year’s Eve and Day 7am – 11pm
 - b. October – 12 nights – 7am – 11pm
4. Public Announcements Allowed at All Events (see letter from Jerry Harrison)
5. Firearm Events Prohibited.
6. Go-Carts, Demolition Derby, and Tractor Pull Events Prohibited

These conditions are respectfully submitted by BKM Randolph, LLC, doing business as Zoo City Motor Sports.

MEMORANDUM

TO: Randolph County Department of Planning and Development
DATE: March 22, 2016
FROM: Richland Township Neighbors
RE: Application of BKM Randolph, LLC, No. 2016-00000058

The residents of Richland who are affected by the noise and other conditions created by the operation of Zoo City Motor Sports have had at least two public meetings to discuss the impact of Zoo City Motor Sports and its application for rezoning. Attendees at these meeting include Happy Hollow Residents, located to the East of the facility, residents on the West of I-73, other neighbors immediately surrounding the facility, Emmanuel Baptist Church, Lighthouse Baptist Church, and other interested parties from Richland Township. At the March 22, 2016, meeting the gathered residents adopted the following position statement.

BKM Randolph Zoning Restrictions

The application of BKM Randolph, LLC for rezoning of the tract in Application No. 2016-00000058, should be approved only with the following restrictions:

1. Zoo City Motor Sports is expected to comply with all applicable laws, ordinances, and regulations, and obtain all necessary/required permits, that include, but are not limited to the following areas: zoning regulations, including any special conditions pertaining to use of said property, building and structure permits, lighting, storm water discharge, air quality/dust control, sewer, porta-potties, food service,
2. Changes or modifications to the approved use(s) or the site plan shall not be effected unless specifically submitted in writing to and approved in writing by the Randolph County Board of Commissioners.
3. A minimum number of standard vehicle parking spaces shall be clearly established on the subject property to accommodate all employee, spectator and participant traffic generated by the motocross facility. Satellite parking for physical fitness events shall be pre-arranged for any overflow parking. Zoo City Motor Sports shall be responsible for providing security for said events, parking attendants for any satellite parking lots, and shuttle bus service to and from any satellite parking lots.

4. Restrictions on Operation:

a. Open Practice Times

– Saturday 9:00 a.m. to 6:00 p.m.

b. MotorCross/Motorized Race Events

1) Two weekends per month: March – October; all races completed by 7:30 p.m.;

2) No motorized racing on Sundays;

3) Limited to one single motorized event per day: motor cross, UTV, ATV, go cart;

4) No simultaneous events, i.e., go-carts on one track, MX on another; and

5) Age limit on racing is 19 years or younger.

c. No limitations on physical fitness events, bicycle events, non-motorized events provided the above conditions regarding security, parking. Hours of operation until 10:00 p.m.

d. Allow four special events per year (for example, July 4th, Halloween haunted trail, Christmas, etc.).

e. No PA use except for race events, or past 7:30 p.m. in any event, except in cases of emergencies.

f. No music concerts/events .

g. No firearm use/events.

h. No alcohol allowed on premises.

i. Comply with all previous conditions and promises regarding noise mitigation, i.e., berms, replace/add vegetation, etc., within 12 months of approval by Board of Commissioners

j. include sound barriers level 2 and level 3 at discretion of Randolph County Planning Board